REMARKS

Reconsideration of the above-identified application is respectfully requested.

Claims 1–4, 9, 10, and 13 were rejected as anticipated by Knudsen. The Knudsen patent is not an anticipation of the claims because the Knudsen patent does not disclose a gas seal. The structure described in the patent is a U–shaped guide rail. The patent does not use the word "seal." How can something be considered disclosed when it is not mentioned in a patent?

To one of ordinary skill in the art, a U–shaped guide rail is not a gas seal. Patent specifications are addressed to one of ordinary skill in the art. "Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum" MPEP §2106. This directive in the MPEP echoes repeated statements from the Federal Circuit. "The definiteness of the language employed must be analyzed — not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art" *Solomon v Kimberly–Clark Corp.*, 55 USPQ2d 1279, 1282 (Fed. Cir. 2000), quoting *In re Moore*, 169 USPQ 236, 238 (CCPA 1971).

The Examiner asserts that the Knudsen patent discloses elastomer. The Knudsen patent does not use this word. The Knudsen patent discloses "an elastic material, such as polyvinylchloride plastic." Thus, it is respectfully submitted that there is no anticipation.

The Examiner has argued that side sections 16 and 18 each constitute a sealing lip. How can the Examiner make such an assertion when there is no disclosure in the Knudsen patent to that effect and when it is absolutely clear that side sections 16 and 18 cannot function as sealing lips? As disclosed in column 4, lines 46–47, "side sections 16, 18 extend parallel to each other." Where is the seal?

Claims 5–8, 11, and 12 were rejected as unpatentable over Knudsen in view of Mann. Contrary to the Examiner's assertion, it is respectfully submitted that the Knudsen patent does **not** disclose "the invention substantially as claimed" for the reasons given above. Further, the Mann patent overcomes none of the deficiencies of the Knudsen patent. Further still, there is no basis for the combination, and none is asserted, other than applicant's claims; *In re Rouffet* 47 USPQ2d 1453 (Fed. Cir. 1998). The patents are classified in different arts and do not share a common cross-reference. The devices disclosed serve completely unrelated purposes. One device relates to a sliding track mechanism to facilitate opening and closing a pivoting window. The other device relates to a fire and smoke seal.

In view of the foregoing amendment and remarks, it is respectfully submitted that claims 1–13 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,

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